

Chapter: Agency Management and Operations
Subchapter: Interaction with the Public
Rule: Complaints from the Public

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ACA Standard(s): N/A

RULE

(a) Purpose.

The purpose of this rule is to establish a process through which Texas Youth Commission (TYC) will resolve complaints relative to the operation of and services provided by TYC including those involving the Americans with Disabilities Act of 1990 (ADA) (Public Law 101-336). Members of the public who wish to file a complaint, including one that alleges a violation of the ADA, may do so under the rules established by this policy. Members of the public are entitled to and shall receive a timely and responsive resolution of a complaint.

(b) Public Complaint that does not involve an ADA Violation.

(1) How to File a Public Complaint that does not Involve an ADA Violation.

- (A) Complaints must be filed in writing. In order to be timely filed, a complaint must be filed within 180 calendar days after the complainant became aware of, or should have become aware of, the circumstances the complainant believes constitutes a basis for complaint. Failure to timely file can result in the commission refusing to consider the complaint.
- (B) No particular format is prescribed for a complaint. However, concise and accurate information can be of immeasurable assistance in resolving the complaint. At a minimum the complaint should contain the following information:
 - (i) name, address and telephone number of persons filing the complaint;
 - (ii) the nature of the complaint and a brief description of the circumstances surrounding the complaint to include location, names, and dates.

(2) Where to File a Public Non ADA Complaint.

The complaint may be filed with the administrator of a TYC field program or with the complaint coordinator in TYC's central office at 4900 North Lamar, P.O. 4260, Austin, Texas 78765.

(3) Non-ADA Public Complaint Processing Procedures.

A record of each complaint shall be maintained by the complaint coordinator.

- (A) The complaint coordinator shall be notified of all complaints received and assigns each complaint to the most appropriate administrator for response. Resolution of complaint is attempted at the program level.
- (B) The administrator assigned resolution of a complaint:
 - (i) attempts to resolve the complaint in a timely and effective manner;
 - (ii) reports the status of resolution to the complainant at least monthly until and including final disposition; and
 - (iii) sends copies of communications with the complainant to the complaint coordinator.

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(c) **Public Complaint that involves an ADA Violation.**

(1) **ADA Compliance Officer.**

The Texas Youth Commission (TYC) complies with the Americans with Disabilities Act of 1990 (ADA) (Public Law 101-336). The executive director has appointed the central office Director of Risk Management, 4900 North Lamar, P.O. Box 4260 Austin, Texas 78765, as the ADA compliance officer for TYC.

(2) **How to File a Public ADA Complaint.**

Complaints may be filed either in writing or verbally. If the complaint is initially filed verbally, it must subsequently be reduced to writing and received by the ADA compliance officer not later than 15 calendar days after the ADA compliance officer was notified of the initial verbal filing. The complaint, in order to be timely filed, must be filed within 180 calendar days after the complainant became aware of, or should have become aware of, the alleged violation. Failure to timely file can result in the commission refusing to consider the complaint.

(3) **Public ADA Complaint Format.**

No particular format is prescribed for a complaint. However, concise and accurate information can be of immeasurable assistance in resolving the complaint. At a minimum the complaint should contain the following information:

- (A) name, address and telephone number of person filing the complaint; and
- (B) the nature of the complaint and a brief description of the circumstances surrounding the complaint to include location, names, and dates.

(4) **Where to File a Public ADA Complaint.**

The complaint may be filed directly, either verbally or in writing, with the ADA compliance officer at the address in paragraph (1) of this subsection, or the complaint may be filed in writing with the superintendent of any TYC facility, or the director of any TYC area office. That administrator will then immediately notify the ADA compliance officer and forward the written complaint to the ADA compliance officer within one (1) working day from date of receipt of the complaint.

(5) **Public ADA Complaint Processing Procedures.**

(A) **ADA Compliance Officer and Employee Grievance Administrator Responsibilities.**

Within five (5) calendar days after the ADA compliance officer receives the written complaint the ADA compliance officer and the employee grievance administrator will jointly identify the appropriate decision authority and establish a date the complainant is due receipt of the decision. As soon as possible after identification of the decision authority, the ADA compliance officer will notify the complainant of receipt of the complaint, the name of the TYC administrator appointed to resolve the complaint (decision authority), and the date a decision is due the complainant.

(B) **Decision Authority's Responsibilities.**

(i) **Assignment.**

Immediately upon receipt of the complaint the decision authority reviews it to ensure that he/she has the authority to act. If the decision authority does not have the authority to act, he/she will forward the complaint to the next level administrator who has the

authority to act on the complaint. If the complaint is forwarded, the initial decision authority will immediately notify the ADA compliance officer and the employee grievance administrator of the transfer.

(ii) **Time Lines.**

The decision authority has 25 calendar days from date of receipt of the complaint to conduct an investigation, resolve the complaint, prepare a written decision, obtain a legal review of the decision, and notify the complainant in writing of the decision. If for good cause the decision authority requires additional time for investigation and resolution of the complaint, he/she will notify the ADA compliance officer, employee grievance administrator and the complainant of the reasons for the delay and provide a new estimated decision date.

(iii) **Investigation.**

The decision authority conducts the investigation or he/she may appoint an employee to conduct the investigation and provide the decision authority with non-binding recommendations. Prior to commencing the investigation, the person who will actually conduct the investigation (investigator) will review the complaint with the central office legal department and he/she will continue to periodically advise the legal department and the ADA compliance officer of the progress of the investigation. The investigator will permit the complainant and/or complainant's representative, and the investigator may, in his/her sole discretion, permit any other persons the investigator determines to have relevant information, to present matters on the complaint. There is no burden of proof on either the commission or the complainant. There are no rules of evidence applicable to the investigation. The decision authority is the sole judge of relevance, credibility of witnesses and the weight to be afforded testimony and other relevant evidence. However, information determined by the decision authority to be factual should be supported by a preponderance of the evidence.

(iv) **Report of Investigation.**

Upon completion of the investigation the decision authority will provide the complainant with a written decision on the complaint. If the decision is adverse to the complainant, the decision authority will include his/her reasons for the adverse decision. Prior to release of the written decision to the complainant, or any other person or entity, the decision authority will submit the proposed decision to the central office legal department for review. The legal department shall have five (5) working days from receipt to review the proposed decision for legal sufficiency. If the legal department finds the decision to be for any reason legally insufficient, the decision will not be released to any one until such time as the deficiency has been corrected and the proposed decision has been found to be legally sufficient.

(v) **Decision Distribution.**

After legal department approval, the decision authority will provide a copy of the decision to the complainant, the complainant's representative, if any, the ADA compliance officer, the employee grievance administrator, and the director of the legal department.

(6) **Request for Review of Public ADA Complaint Decision.**

- (A) If the complainant is dissatisfied with the decision, he/she may, within ten (10) calendar days of the date of receipt of the decision, submit the written decision, and a written statement specifically outlining the reasons for disagreement, addressed to the executive director, Texas Youth Commission, at the address provided in paragraph (1) of this subsection, for review.

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- (B) Upon receipt of the request for review, the executive director has 20 calendar days from date of receipt of the request for review to consider, resolve the issue and notify the complainant in writing. Prior to releasing his/her decision, the executive director should, if the proposed decision is adverse to the complainant, submit the complaint record to the central office legal department for review and advise. If the executive director's decision is adverse to the complainant, the written notification need only state that the issue has been considered and that no valid reason has been found to warrant reversing the decision.
 - (C) Distribution of the decision will be as established in paragraph (e)(5)(B)(v) of this subsection.
 - (D) The decision by the executive director finalizes the complaint process within TYC and exhausts the complainant's administrative remedies.
- (7) **Public ADA Complaint Record Repository.**

The ADA compliance officer is responsible for maintaining the files and records of all ADA complaints relative to TYC. Upon completion of processing the complaint, including any appeal, the original decision authority is responsible for ensuring that the original complaint, all correspondence, and any other relevant materials will be forwarded to the ADA compliance officer for filing.
